

HAINES BOROUGH, ALASKA
ORDINANCE No. 17-xx-xxx

Draft

An Ordinance of the Haines Borough amending Haines Borough Code Title 18 to create a new definition for "resource extraction".

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Title 18: Definitions for "Vacation Rental" in Haines Borough Code is hereby amended as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

18.20.020: Definitions – Regulatory.

~~"Resource extraction" means a use involving clearing or grading of land or the removal, for commercial purposes, of native vegetation, topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics a~~
primary land use involving the removal of any naturally occurring material. If the removal of a naturally occurring material is the result of a primary land use, such as property development, the removal of the naturally occurring material is a secondary land use and is not considered resource extraction.

If the Haines Borough is unable to determine whether the removal of a naturally occurring material is the result of a primary or secondary land use, and resource extraction is not a use by right, the property owner is required to submit a land development plan for review by the planning commission. The planning commission will determine whether the removal of a naturally occurring material is a primary or secondary land use. If a property owner deviates from an approved land development plan without approval from the planning commission, removal of a naturally occurring material will be considered resource extraction.

"Land development plan" means a written explanation of the property owner's intended use of the property. The land development plan must explain the primary land use, all secondary land uses, timeline, and the methods to be employed in order to achieve the land development plan. A land development plan is only required to determine if the removal of a naturally occurring material is considered resource extraction. A land development plan must be reviewed by the planning commission for the sole purpose of determining if the removal of a naturally occurring material is resource extraction.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS ____
DAY OF _____, 2017.

ATTEST:

Janice Hill, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: __/__/__
Date of First Public Hearing: __/__/__
Date of Second Public Hearing: __/__/__

HAINES BOROUGH, ALASKA
ORDINANCE No. 17-xx-xxx

Draft

An Ordinance of the Haines Borough amending Haines Borough Code Title 18 to create a new definition for "resource extraction".

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Title 18: Definitions for "Vacation Rental" in Haines Borough Code is hereby amended as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

18.20.020: Definitions – Regulatory.

~~"Resource extraction" means a use involving clearing or grading of land or the removal, for commercial purposes, of native vegetation, topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics~~ **the excavation of mineral or soil-based materials including, but not limited to rock, gravel, sand, clay, topsoil, and peat and the transport of those materials off of their property of origin. Exemption: Amounts below 500 cubic yards per lot per year.**

"Commercial timber harvest" or "commercial logging" means the cutting and removal of trees for the purpose of sale. Exemptions: 1. Logging for the purpose of clearing easements for roads, driveways or utilities. 2. Amounts below 40,000 board feet (16 logging truck loads) per lot per year."

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS ____ DAY OF _____, 2017.

ATTEST:

Janice Hill, Mayor

Julie Cozzi, MMC, Borough Clerk

Date Introduced: ____/____/____
Date of First Public Hearing: ____/____/____
Date of Second Public Hearing: ____/____/____

18.70.030 Zoning districts – Zones.

The borough is hereby divided into the following zoning districts and zones. These districts and zones are depicted on the official borough zoning map.

A. Townsite Planning/Zoning District. The townsite planning/zoning district is defined as that area known as the townsite service area.

...

B. Mud Bay Planning/Zoning District.

1. Intent. The intent of this district is to preserve the existing zoning provisions of the former land use service area No. 1 (Mud Bay) and for the people of the Mud Bay community to preserve their lifestyle, community scale, self-sufficiency, self-determination, and the basic rights of health, safety and welfare. This is in accordance with the goals and objectives of the former Mud Bay land use service area board which were developed from the Haines Borough comprehensive plan.

2. Applicability. This district shall be defined as:

Beginning at the NW corner of Section 14, T31S, R59E, CRM; thence due south to SW corner of Section 26, T31S, R59E CRM; thence southeast to SW corner of Section 21, T32S, R60E CRM; thence due east to SE corner of Section 21, T32S, R60E CRM; thence northeast to NE corner of Section 22, T32S, R60E CRM; thence north-northwest to NE corner of Section 17, T31S, R60E CRM; thence due west to the point of beginning. This describes an area of the Chilkat Peninsula from the southern edge of the Carr's Cove Subdivision to Seduction Point, and including Kochu Island.

3. Rural Residential Zone (MBRR).

a. Purpose. This zone is intended to provide for the establishment of a rural residential area allowing for single-family dwellings and cottage industries.

b. Applicability. This zone shall encompass all lands within the Mud Bay planning/zoning district with the exception of the cannery zone.

c. Uses-by-Right.

(1) One single-family dwelling shall be allowed on a lot no less than three acres in area, or on any smaller lot which existed prior to the implementation of any land use ordinances.

(2) Any development which existed prior to the implementation of any land use ordinances.

d. Accessory Uses. Accessory uses in the rural residential zone are:

(1) Accessory buildings;

(2) Cottage industries;

(3) Guest house.

e. Conditional Uses. Conditional uses in the rural residential zone are:

(1) Public parks, public recreation sites, and nonprofit camps;

(2) Schools;

(3) Fire stations;

(4) Lodges;

(5) Commercial or public radio and television transmitters and towers;

(6) Public utility facilities;

(7) Commercial Enterprise. "Commercial enterprise" means any commercial, manufacturing, sale or service that occurs on a person's private property. A commercial enterprise shall be conducted only by a member or members of a family residing in a residence on the property and with up to six additional employees at any one time. Terms of a conditional use permit for commercial enterprise shall eliminate or mitigate adverse effects to air quality, noise, traffic, parking, waste and sewage, signs, lighting and burdens on any community utilities and resources that may result from such commercial enterprise;

(8) Cemetery;

(9) Vacation rentals.

f. Lot Standards. The minimum lot size in the rural residential zone for newly developed lots shall be three acres;

g. Setback Standards.

(1) Structures shall be located no less than 25 feet from the nearest lot line, and right-of-way line, with Chilkat State Park Road being exempt from the right-of-way setbacks.

(2) Structures shall be located no less than 25 feet, measured from the top of the nearest stream bank, from any stream or watercourse used to provide domestic water, and from all anadromous fish streams.

h. Prohibited Uses.

(1) Heliports.

4. Cannery Zone (CA).

a. Purpose. This zone is intended to create a commercial area for the provision of support functions for the Haines fishing fleet.

b. Applicability. This zoning shall apply to the area as described: Lot 2, SEC 24, T31S, R59E, CRM, lot 3, SEC 19, T31S, R59E, CRM; ATS 192, Tracts A and B; TL-1902, SEC 19, T31S, R59E, CRM.

c. Permitted Uses. Permitted uses in the cannery zone (commercial) are:

(1) Moorage;

(2) Boat and gear storage and maintenance;

(3) Retail sale of petroleum products and miscellaneous fishing supplies;

(4) All residential uses which must be consistent with the provisions permitted within the rural residential zone;

(5) Any use existing prior to the implementation of any land use ordinances.

d. Accessory uses. Accessory uses and buildings shall be consistent with the rural residential zone standards previously stated in this code.

e. Conditional uses. There are no conditional uses in the cannery zone.

f. Prohibited Uses.

(1) Heliports.

C. Lutak Inlet Planning/Zoning District.

1. Intent. The intent of this district is to protect and maintain the water quality, waterfront and watershed of Lutak Inlet and the Chilkoot River system while encouraging a rural lifestyle that includes cottage industry. In addition, there is a desire to maintain the natural environment and its associated fisheries and wildlife by ensuring orderly growth and sensible land use.

2. District Defined. This district is defined as follows:

Beginning at the N.E. Corner of Section 16, Township 30 South, Range 59 East, C.R.M.; thence southwesterly to the summit of Tukagahgo Mt.; thence northwesterly to the summit of Mt. Kashagnak; thence northwesterly to the summit of Klutshah Mt.; thence due East on a straight line to the highest point on the ridge line between the Chilkoot River drainage and the area drained by the Ferebee River; thence in a southeasterly direction from high point to high point along said ridge line to Sanka Point on the West side of Taiyasanka Harbor; thence southwesterly to the N.E. Corner of Borough-owned tidelands off the Lutak Dock; thence in a southwesterly direction along the Townsite Service Area limits to the true point of beginning.

3. Rural Residential Zone.

a. Purpose. This zone is intended to provide for the establishment of a rural residential area allowing for one single-family dwelling per lot and cottage industries.

b. Applicability. This zone applies to all lands within Lutak Inlet land use planning and zoning district excluding those within the riparian zone.

c. Uses-by-Right. Permitted uses are those uses which are allowed outright within a particular zone. In the residential zone those uses are:

- (1) One single-family dwelling per lot;
- (2) Guest houses;
- (3) Cottage industry;
- (4) Domestic log milling (milling for personal use).

d. Accessory Uses. Accessory uses are those uses which are incidental to the permitted use. In the residential zone, accessory uses include but are not limited to:

- (1) Wood sheds, greenhouses, smokehouses, tool sheds, steam baths, saunas, workshops and garages, provided they are within the required setbacks;
- (2) Chicken coops, rabbit hutches, barns, and other structures and enclosures for housing animals and fowl, provided they are within the required setbacks;

e. Conditional Uses. Conditional uses in the rural residential zone are:

- (1) Churches;
- (2) Schools;
- (3) Lodging houses;
- (4) Public parks and recreation sites;
- (5) Public utility facilities;
- (6) Fire stations;

- (7) Community halls;
 - (8) Governmental buildings;
 - (9) Rentals, sales, and professional services;
 - (10) Fish hatchery;
 - (11) Commercial agriculture;
 - (12) Commercial logging;
 - (13) Campgrounds; provided, that:
 - (a) A 50-foot greenbelt separates the campsites from any public road right-of-way and a 20-foot greenbelt separates the campsites from any perimeter property lines; and
 - (b) The campground is at least one-half mile from existing houses or land subdivided for residential purposes at the time of the application for a conditional use permit; and
 - (c) The campground provides facilities for solid waste disposal (e.g., bear-proof dumpsters); and
 - (d) Complies with all Department of Environmental Conservation sanitation requirements contained in 18 AAC 30; and
 - (e) The campground has a maximum average density of six individual campsites per commercially developed acre, a minimum distance from center to center of adjacent sites of 75 feet and a maximum of 60 sites overall;
 - (14) Cemetery;
 - (15) Vacation rentals.
- f. Prohibited Uses Designated. All uses not expressly provided under permitted, accessory or conditional uses are prohibited.
- g. Lot Standards. The minimum lot size in the rural residential zone shall be three acres. The minimum lot width shall be 200 feet.
- h. Building Setback Standards. Structures shall be located no closer than 10 feet from all property lines except for properties located along the Lutak Spur road (from the Chilkoot River bridge to the end of the road) where there will be no minimum setback along the road front right-of-way. Setbacks will apply for all other property lines along the Lutak Spur road.
- i. Building Height Standards. The building height standard is 35 feet maximum height from the plane of the mean building grade.
- j. Sign Standards.
- (1) Signs permanently affixed to structures shall not exceed 32 square feet.
 - (2) Permanent signs not affixed to a structure shall not exceed 16 square feet.
 - (3) Only nonelectrified signs will be permitted.
 - (4) Temporary signs shall be removed within 10 days after the date of sale or the event or condition advertised. Temporary signs shall not exceed 16 square feet per side.

k. Recreational Vehicle (RV) Parking. Recreational vehicles are not to be used as permanent dwellings, such as a single-family dwelling, and may not be inhabited on the lot more than four months annually. Parking will be limited to three RVs per lot. Commercial RV parks are prohibited.

l. Noise Standards.

(1) Heavy equipment operation, other than for house maintenance, building construction, or emergencies, is limited to the hours of 8:00 a.m. to 5:00 p.m., seven days a week with a maximum of seven consecutive days of operation.

(2) All generators used for permanent power must be muffled, enclosed and owners must employ noise reduction measures (a pamphlet describing such measures will be available from the manager). Generators used for construction purposes or emergencies are exempt. It is not the intent of this chapter to place an onerous burden on any property owner but to try to control noise pollution from power generators for the benefit of all within the zone.

4. Riparian Zone (RI).

a. Purpose. This zone is intended to provide for the protection of waterfront property.

b. Applicability. The riparian zone applies to all land from mean high tide to the 21-foot high tide level and 15 feet landward therefrom and/or 15 feet from the vegetated banks of streams or lakes.

c. Permitted Uses. The only permitted use will be water intake structures for domestic water use.

d. Accessory Uses. Accessory uses in the riparian zone are:

- (1) Saunas;
- (2) Cisterns;
- (3) Hot tubs;
- (4) Spring houses.

e. Conditional Uses. Conditional uses in the riparian zone are:

- (1) Hydropower units;
- (2) Parks;
- (3) Fish hatcheries;
- (4) Docks;
- (5) Boat launching facilities;
- (6) Bridges;
- (7) Roads and trails;
- (8) Cottage industries;
- (9) Commercial water intakes.

f. Prohibited Uses Designated. All uses not expressly provided under permitted, accessory or conditional uses are prohibited.

D. GU – General Use Planning/Zoning District.

1. Intent. Recognizing the borough regions with no previous land use regulation and the need to provide a reasonable transition toward land use regulation, the general use planning/zoning district is intended to allow as broad a range of land uses as possible. This district allows any use, but requires a conditional use permit for high impact uses.

2. Uses-by-Right.

- a. Existing uses;
- b. Animal husbandry or crop production;
- c. Residential uses, including duplex and multifamily dwellings, subdivisions, trailers, mobile homes and mobile home parks;
- d. Retail and wholesale commercial businesses;
- e. Vehicle, engine or boat repair shops;
- f. Hotels, motels, bed and breakfasts or other commercial accommodations;
- g. Office buildings, including medical and dental offices;
- h. Recreational vehicle parks;
- i. Parks and campgrounds;
- j. Utility facilities and structures;
- k. Light and heavy industrial uses;
- l. Resource extraction;
- m. Sawmills;
- n. Manufacturing, processing and storage facilities;
- o. Docks, marinas, piers, boat ramps and freight or bulk transshipment facilities;
- p. All other uses not specifically listed above, and any use or structure, which is customarily accessory and clearly subordinate to uses-by-right.

3. Prohibited Uses. There are no prohibited uses in this district.

4. Nonconforming Uses. There are no nonconforming uses in this district.

5. Conditional Uses. Landfills, commercial power plants, cemeteries, heliports, and hazardous materials storage facilities require a conditional use permit.

Applications for conditional use permits in the general use zoning district shall be submitted and processed in accordance with Chapter 18.50 HBC, and definitions under HBC 18.20.020 shall apply. (Ord. 13-10-354 § 4; Ord. 13-09-349 §§ 5, 6; Ord. 11-04-262 § 4; Ord. 11-02-257 § 4; Ord. 07-04-153; Ord. 05-05-106; Ord. 04-06-060)

18.70.040 Zoning use chart.

The following chart summarizes the uses allowed and the standards of review for each use, townsite planning/zoning district and the zones therein. In the commercial and industrial zones, more than one building housing a permissible principal use may be developed on a single lot; provided, that each building and use shall comply with all applicable requirements of this title. Additional requirements may be applicable to developments within some zones. See the definitions in Chapter 18.20 HBC for descriptions of each use.

**ZONING USE CHART
TOWNSITE PLANNING/ZONING DISTRICT**

UBR = Use-By-Right CU = Conditional Use NA = Not Allowed GFA = Gross Floor Area

 = Permit Required

 = Permit Not Required

Under General Classification, uses in UPPER CASE are primary and uses in lower case are secondary.

GENERAL CLASSIFICATION ➔	INDUSTRIAL USES			COMMERCIAL/ Residential Uses			RESIDENTIAL USES ONLY	RESIDENTIAL/ Commercial Uses				REC
Specific Zoning Districts ➔	Heavy Industrial	Light Industrial/ Commercial	Waterfront Industrial	Commercial	Waterfront	Significant Structures Area	Single Residential	Multiple Residential	Rural Residential	Rural Mixed Use	Multiple Use	Rec
USES ⬇	I/H	I/L/C	I/W	C	W	SSA	SR	MR	RR	RMU	MU	REC
Combination R/I/C	CU	UBR	CU	UBR	CU	UBR	NA	NA	NA	UBR	UBR	NA
Commercial, Light – Less than 500 sf	CU	UBR	CU	UBR	UBR	UBR	NA	CU	UBR	UBR	UBR	NA
Commercial, Medium – 500 – 5,000 sf	CU	UBR	CU	UBR	CU	CU	NA	NA	CU	CU	UBR	NA
Commercial, Major – More than 5,000 sf	UBR	UBR	UBR	UBR	CU	CU	NA	NA	NA	NA	UBR	NA
Industrial, Heavy	UBR	CU	UBR	CU	NA	NA	NA	NA	NA	CU	UBR	NA
Industrial, Light	CU	UBR	CU	CU	CU	NA	NA	NA	NA	CU	UBR	NA
Junk Yard	UBR	UBR	NA	CU	NA	NA	NA	NA	NA	CU	UBR	NA
Landfill	UBR	UBR	NA	CU	NA	NA	NA	NA	NA	CU	UBR	NA
Resource Extraction/ Proc.	UBR	CU	CU	CU	NA	NA	NA	NA	CU	CU	UBR	NA
Commercial Logging												